



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG-2011-0551]

RIN 1625-AA00; 1625-AA08

Special Local Regulation and Safety Zone; America's Cup
Sailing Events, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking and public meetings.

SUMMARY: The Coast Guard proposes to adopt a temporary special local regulation and temporary safety zone for those portions of the "America's Cup World Series," the "Louis Vuitton Cup" challenger selection series, and the "America's Cup Finals Match" sailing regattas that may be conducted in the waters of San Francisco Bay adjacent to the City of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island between August and September 2012 and between July and September 2013. These regulations would be necessary to provide for the safety of life on the navigable waters immediately prior to, during, and immediately after any regattas that may occur. The proposed regulation would temporarily restrict vessel

traffic in a portion of the San Francisco Bay, prohibit vessels not participating in the America's Cup sailing events from entering the designated race area, and create a temporary safety zone around racing vessels.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Public meetings will be held between 6 p.m. and 8 p.m. on March 6, 7, and 8, 2012.

ADDRESSES: You may submit comments identified by docket number USCG-2011-0551 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-4325.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request

for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Lieutenant Junior Grade DeCarol A. Davis at 415-399-7436, or e-mail

D11-PF-MarineEvents@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2011-0551), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If

you submit a comment online via www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2011-0551" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your

comments.

Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box type "USCG-2011-0551" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Public meetings

We will hold three public meetings on this proposed rule on March 6, 7, and 8, 2012. All meetings will be held from 6 p.m. to 8 p.m. in the following locations. The meetings may end earlier if all concerns are heard prior to 8 p.m.

March 6, 2012: Presidio Log Cabin, 1299 Storey Ave., San Francisco, CA 94129;

March 7, 2012: Inn Marin, 250 Entrada Dr., Novato, CA 94949;

March 8, 2012: Waterfront Hotel, 10 Washington St., Oakland, CA 94607.

For information on services and facilities, or if you have any questions, contact Lieutenant Junior Grade DeCarol A. Davis at 415-399-7436, or e-mail

D11-PF-MarineEvents@uscg.mil. A written summary of each meeting will be placed in the docket.

Basis and Purpose

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta or marine parade. The Commander of Coast Guard District 11 has delegated to the Captain of the Port (COTP) San Francisco the

responsibility of issuing such regulations. The COTP also has the authority to establish safety zones under 33 CFR 1.05-1(e) and 165.5.

As discussed below, the America's Cup Race Management has applied for a Marine Event Permit to hold the 34th America's Cup races on the waters of San Francisco Bay in California. The Coast Guard has not approved the Marine Event Permit and is still evaluating the application. If the permit is approved, however, we anticipate that a special local regulation may be necessary to ensure public safety during the races. To provide adequate time for public input, we are proposing this special local regulation and safety zone prior to a decision on the Marine Event Permit. If the Marine Event Permit is not approved, we will withdraw this proposed rule.

Background

On December 31, 2010, the America's Cup Organizing Committee selected the City of San Francisco as the event sponsor to host the 34th America's Cup sailing events taking place in 2012 and 2013. Mayor Gavin Newsom and the San Francisco Board of Supervisors approved a 34th America's Cup Host and Venue Agreement with the America's Cup Event Authority and America's Cup Organizing Committee.

In 2012, the City of San Francisco plans to host two America's Cup World Series regattas as part of a circuit of sailing events being conducted at other U.S. and international venues. The San Francisco World Series regattas are scheduled to occur August 11-19, 2012, and August 25-September 2, 2012. Each World Series regatta consists of fleet and match races and determines a regatta winner, but the outcomes do not affect the Louis Vuitton Cup or the America's Cup Finals Match in 2013.

In August 2013, the City of San Francisco plans to host the Louis Vuitton Cup challenger selection series to determine the contestant to race the Defender of the 34th America's Cup. During the challenger selection series, teams will compete in a series of fleet and match races to determine the Louis Vuitton Cup winner, and that winning team will compete against the America's Cup Defender in the 34th America's Cup Finals Match, a best of nine match races, currently planned for September 7-24, 2013, and expected to draw the most spectator activity.

The 2012 World Series regattas feature 45-foot winged-sail catamarans (AC45) which have attained speeds in excess of 30 knots. In 2013, the Louis Vuitton Cup and America's Cup Finals match will feature larger 72-foot catamarans (AC72), each crewed by a team of 11 competitors. The AC72

is predicted to attain speeds in excess of 40 knots. The America's Cup Event Authority has selected venues for each regatta around the world to showcase racing close to spectators ashore and via broadcast media. In San Francisco, they propose to take advantage of the natural amphitheater that the Central Bay and City waterfront provides.

Prior to drafting this Notice of Proposed Rulemaking, the Coast Guard solicited input from maritime users and stakeholders to better understand the nature of commercial and recreational activities on the Bay and how the proposed America's Cup sailing regattas could impact such activities. The Coast Guard used the local Harbor Safety Committee (HSC) and hosted various public meetings to obtain information and gather feedback on notional solutions.

The Coast Guard attends all San Francisco HSC meetings, providing a monthly status report on safety conditions in the Bay and addressing questions for maritime users at large. Since July 2011, the Coast Guard has reserved a place on the HSC agenda to discuss America's Cup planning and has fielded questions and concerns regarding the proposed marine event. Issues brought forward by the HSC include the following: (1) concern regarding

communication to the public (i.e., how the public will be notified when race-related regulations are in effect); (2) concern about the Coast Guard's ability and capacity to enforce event regulations over the time period proposed; (3) concern about the economic impact to commercial entities on the Bay; and (4) concern about San Francisco Bay weather patterns that could quickly change and affect safety.

In addition to gathering comments and concerns from the HSC, the Coast Guard held public meetings to gather information related to activities on the Bay that might be affected by the America's Cup events or related safety regulations. In these public meetings, the Coast Guard met with the following maritime users: the deep-draft commercial vessel operators and facility operators; tug and barge operators; ferry vessel operators; charter fishing vessel operators; small passenger vessel operators; and recreational vessel operators and other maritime stakeholders.

During the public meetings, the Coast Guard emphasized the following key objectives in implementing a special local regulation and permitting the event: (1) maintaining a safe and accessible waterway; (2) maintaining smooth flow

of maritime commerce; (3) mitigating environmental impacts; and (4) continuing USCG operations.

Typical comments received during public meetings included: (1) enforcing navigational Rules of the Road; (2) allowing for necessary commercial access in and out of any regulated area; (3) ensuring the safety of spectators; (4) encouraging Coast Guard communication with the public; (5) minimizing the impact to commercial shipping traffic due to potential closure of the Eastbound and Westbound Traffic Lanes; and (6) addressing crowding and congestion due to on-water spectator activity. A record of these meetings is available in the docket, and the Coast Guard considered the public input received at these meetings when developing this proposed rule. The Coast Guard plans to continue consulting maritime users as part of a broad effort to determine and mitigate impacts throughout the America's Cup operational planning process.

Discussion of Proposed Rule

The Coast Guard proposes to create two temporary sections in the Code of Federal Regulations, one for the 2012 events and one for the 2013 events.

2012 America's Cup World Series

The Coast Guard proposes to establish a special local regulation associated with the America's Cup World Series

regattas in 2012. The areas regulated by this special local regulation would be east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the City of San Francisco waterfront. The Coast Guard does not propose to regulate movement within marinas, pier spaces, and facilities along the City of San Francisco waterfront. The Coast Guard proposes to establish a primary regulated area, which includes an area reserved for recreational swimmers, rowers, and kayakers; and a contingent regulated area used only during exceptional circumstances subject to COTP determination. Images of the primary and contingent regulated areas are available in the docket. In this special local regulation, the Coast Guard also intends to regulate vessel traffic in the Central Bay to maintain commercial access to the ports.

All proposed restrictions would apply between noon and 5 p.m. on designated race days, but normal operations could resume earlier than 5 p.m. at the discretion of the COTP. Designated race days would occur between August 11 and September 2, 2012. Not every day during that period would be a race day. The Coast Guard anticipates issuing notice of 12 race dates via Broadcast Notice to Mariners and publishing these race dates in the Local Notice to Mariners and the Federal Register.

The Coast Guard proposes to define a primary regulated area that surrounds the primary race area. The Coast Guard intends to define a regulated area larger than the proposed race area to accommodate changing weather conditions that may alter the exact orientation of racecourses shortly before each racing day and to help the public understand the maximum size of the regulated area of water during race periods. On most race days, the Coast Guard anticipates that some portion of the regulated area will not be restricted. America's Cup support vessels bearing prominently displayed banners will mark the race area on each race day to indicate areas restricted from non-participating vessels.

During prevailing westerly wind conditions, the regulated area for 2012 would be an area of approximately 2 square miles bounded by a line beginning at position 37°48'39"N, 122°25'27"W at the Municipal Pier at Aquatic Park, running north to position 37°49'14"N, 122°25'27"W located south of Alcatraz Island, running west to position 37°49'14"N, 122°28'07"W, running southwest to position 37°49'02"N, 122°28'21"W, running south to position 37°48'32"N, 122°28'21"W (NAD 83), running eastward along the City of San Francisco shoreline and ending at the Municipal Pier. As discussed in the above paragraph, the

Coast Guard anticipates that the actual race area would be smaller than the primary regulated area bounded by these coordinates. The size of the regulated area is intended to accommodate the size and speed of the America's Cup racing vessels, while still allowing the flow of maritime commerce through the central Bay.

The Coast Guard also proposes a contingent race area to be used in the unlikely event that north-south wind conditions make the primary race area unusable for racing. This area will be located east of Alcatraz Island and northwest of Treasure Island within a contingent regulated area bounded by a line connecting the following coordinates: 37°50'56"N, 122°24'37"W; 37°51'24"N, 122°23'39"W; 37°51'23"N, 122°22'58"W; 37°50'07"N, 122°22'05"W; 37°49'54"N, 122°22'43"W; 37°49'35"N, 122°22'46"W; 37°48'51"N, 122°22'20"W; 37°48'52"N, 122°23'56"W; 37°49'02"N, 122°24'43"W; 37°49'48"N, 122°24'47"W; and 37°50'55"N, 122°24'37"W (NAD 83).

The Coast Guard understands that the proposed contingent regulated area extends into navigation channels east of Alcatraz Island and northwest of Treasure Island. In the unlikely event racing is planned in the contingent regulated area, it will only be conducted with COTP approval. If the COTP deems that racing would interfere

with the commercial shipping traffic requiring transit through the contingent regulated area, then the race will be delayed, shortened, or terminated to accommodate commercial shipping schedules.

The proposed rule would prohibit unauthorized vessels from entering the race area in use between noon and 5 p.m. on designated race days. This prohibition is necessary for public and participant safety because of the speed of the racing vessels. The Coast Guard understands, however, that other vessels may need to transit through these areas in order to continue operations. For example, we are aware that dredges may need to access the Alcatraz disposal site and that commercial ferries and fishing vessels will need to access the City of San Francisco waterfront; therefore, this proposed rule provides for entry into the race area after requesting and receiving Coast Guard permission.

The proposed rule intends to create a designated area for recreational swimmers, rowers, and kayakers located near the shoreline between Fort Point and Anita Rock. The expected number of vessels in the Bay and potential for crowding is such that the Coast Guard intends to create a designated space for these activities. During designated race periods, this area would be closed to motorized vessels and all other vessels greater than 20 feet. All

vessels are prohibited from anchoring in this designated area. Restricting motorized and larger vessels from this area would help reduce environmental impact to the Crissy field shoreline, ensure access and safety for swimmers, rowers, and kayakers, and reduce potential viewing obstruction for spectators ashore.

This proposed rule would also prohibit anchoring and loitering along the San Francisco waterfront area east of the protected swimming and boating area, and extending to the Municipal Pier at Aquatic Park. Because the proposed race area for 2012 will be close to the waterfront, this restriction is necessary to protect public safety and prevent potential spectator vessel congestion south of the race area.

Because of the location of the America's Cup race areas and anticipated spectator activity on race days, this proposed rule would close the Eastbound and Westbound San Francisco Bay Traffic Lanes to vessels greater than or equal to 100 gross tons during designated race periods. Vessels less than 100 gross tons are not barred from the traffic lanes, so long as they stay out of the race area. The Coast Guard understands that commercial vessels greater than or equal to 100 gross tons may need to transit through the closed traffic lanes to conduct operations that would

not interfere with the America's Cup sailing events; therefore, this proposed rule provides for entry into the closed traffic lanes with COTP permission.

Shipping traffic may continue to operate using the existing Deep Water (two-way) Traffic Lane. The Regulated Navigation Area (RNA) specified in 33 CFR 165.1181 would continue to apply in this area. This RNA contains one-way provisions for certain vessels such as those greater than 1,600 gross tons carrying dangerous cargos. At the COTP's discretion, vessels in addition to those listed in the RNA could be restricted to one-way traffic as coordinated by Sector San Francisco's Vessel Traffic Service (VTS). Such a one-way traffic scheme could allow more maneuvering space for transiting vessels and may reduce navigational obstacles.

The Coast Guard retains the discretion to delay, shorten, or terminate any America's Cup race, if necessary to ensure safety. Failure to comply with the lawful directions of the Coast Guard could result in additional vessel movement restrictions, citation, or both.

2013 America's Cup Sailing Events

For reasons similar to those described above, the Coast Guard proposes to establish a special local regulation associated with the Louis Vuitton Cup challenger

selection series and the America's Cup Finals Match occurring in 2013. Similar to the special local regulation for the 2012 America's Cup World Series, the primary regulated area would be east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the City of San Francisco waterfront. Images of the regulated areas for 2013 are available in the docket.

As with the 2012 proposed rule, all proposed restrictions would apply between noon and 5 p.m. on designated race days, which would occur between July 4 and September 24, 2013. Not every calendar day during that period would be a race day. The Coast Guard anticipates issuing notice of 45 race dates via Broadcast Notice to Mariners and publishing these race dates in the Local Notice to Mariners and the Federal Register. As competition continues, the number of races planned each day in 2013 will decrease as competitors are eliminated during the Louis Vuitton Cup challenger series. America's Cup Race Management proposes conducting only one match per race day from August 23, 2013 through the America's Cup Finals conclusion on September 24, 2013.

The primary regulated area proposed for 2013 is larger than 2012's because of the larger size of the AC72 racing

vessels. The 2013 proposed rule would implement the same provisions as described for the 2012 special local regulation for establishing a primary regulated area, which will include an area reserved for recreational swimmers, rowers, kayakers; and a contingent regulated area. As in 2012, the Coast Guard also intends to regulate vessel traffic in the Central Bay to maintain commercial access to the ports. In addition to those provisions discussed in the 2012 special local regulation, the Coast Guard proposes to establish a transit zone along the San Francisco waterfront and restrict the use of Anchorage 7.

During prevailing westerly wind conditions, the 2013 race area would be located inside of a primary regulated area approximately 4.5 square miles large bounded by a line beginning at position 37°48'12"N, 122°24'04"W located on the foot of Pier 23, running northeast to position 37°48'41"N, 122°23'16"W, running northwest to position 37°49'41"N, 122°24'30"W located east of Alcatraz Island, running west to position 37°49'41"N, 122°27'35"W, running southwest to position 37°49'02"N, 122°28'21"W, running south to position 37°48'32"N, 122°28'21"W, and running eastward along the City of San Francisco shoreline ending at position 37°48'12"N, 122°24'04"W located on the foot of Pier 23.

As in 2012, the Coast Guard anticipates that the actual 2013 race area would be smaller than the regulated bounded by the coordinates above. America's Cup support vessels bearing prominently displayed banners will mark the race area on each race day to indicate areas restricted from non-participating vessels.

While evaluating the primary regulated area proposed for 2012 and its possible impact to commercial operators, the Coast Guard considered including a dedicated transit zone for 2012 similar to the one proposed for 2013. The Coast Guard believes that a transit zone for 2012 would be unnecessary because the regulated area's size and location, which are similar to that of the regulated area for San Francisco Fleet Week, adequately allow vessel operators to transit around the regulated area. Conversely, the regulated area for 2013 is more than twice as large as the regulated area for 2012, and the Coast Guard anticipates that the Louis Vuitton Cup and the America's Cup Finals in 2013 will draw more spectator activity than the regattas in 2012. Due to the size of the regulated area in 2013, it may be less feasible for commercial operators to safely transit around this regulated area as expected in 2012. For this reason, this rule proposes to establish a transit zone along the City of San Francisco waterfront and a no-

loitering area similar to the one proposed for 2012.

The transit zone is intended to facilitate the safe transit of vessels needing access to pier space and facilities along the City of San Francisco waterfront and to minimize other traffic that may obstruct the waterfront. Vessels would not be permitted to loiter or block the transit area. At the COTP's discretion, vessel movement in this zone could be restricted to one-way traffic coordinated by the Patrol Commander. The eastern entrances of the transit zone may be temporarily closed as races finish.

This proposed rule would also restrict vessels from anchoring in Anchorage No. 7 without permission from the COTP during designated race periods in 2013. Keeping this area clear would increase maneuvering room for transiting vessels during peak spectator activity and provide an emergency anchorage in response to a marine casualty.

The Coast Guard retains the discretion to delay, shorten, or terminate any America's Cup race, if necessary. Failure to comply with the lawful directions of the Coast Guard could result in additional vessel movement restrictions, citation, or both.

Temporary Safety Zone for America's Cup Racing Vessels

The Coast Guard proposes to establish a temporary

safety zone requiring persons and vessels to remain 100 yards from America's Cup racing vessels. This temporary safety zone would be in place between noon and 5 p.m. on race days and would not be in effect while the racing vessels are practicing outside of designated race periods. Only on rare occasions do we anticipate America's Cup racing vessels competing outside of the race area, and we anticipate that this safety zone will be necessary for public safety during such exceptional circumstances. An example of an exceptional circumstance would be using the safety zone to provide additional safeguards during Opening Day Ceremonies when America's Cup Race Management proposes to conduct a race leg under the Golden Gate Bridge.

We also have proposed this temporary safety zone in part to reduce the size of the footprint of the primary regulated areas. The provisions of this temporary safety zone would not apply to anchored vessels, nor would it exempt racing vessels from any Federal, state or local laws or regulations, including Rules of the Road regulations.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

Executive Orders 12866, Regulatory Planning and Review, and 13563, Improving Regulation and Regulatory Review, direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

The entities most likely to be affected by this proposed rule would be commercial shipping traffic, ferry vessels, fishing vessels, and pleasure craft engaged in recreational activities. Although this rule proposes to restrict navigation on San Francisco Bay, these restrictions would only be in place in a small area for a limited time on specific dates. We also expect this event

to be well publicized so that waterway users would be able to plan their activities in advance to take into account any restrictions.

The proposed rule would not exceed a five-hour period between noon and 5 p.m. on certain dates. On many race days, the affected period will be shorter. The entities affected would be permitted to navigate around the restricted area during these periods, and the proposed rule would create a traffic scheme for doing so. The proposed rule would not prevent commercial operators from conducting operations during the America's Cup sailing events. Shipping traffic may operate around the regulated area using the Deep Water (two-way) Traffic Lane. The San Francisco VTS will help facilitate the safe and efficient use of the waterways.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. We find that the proposed rule would have some affect on small entities, but would not have a significant economic impact on a substantial number of the entities. This proposed rule would affect the following entities, some of which might be small entities: (i) the owners or operators of commercial vessels intending to transit, operate, or anchor in a portion of the San Francisco Bay; and (ii) owners and operators of recreational vessels using the regulated portion of San Francisco Bay.

Although this proposed rule would affect these small entities, this rule would not have a significant economic impact on a substantial number of small entities for several reasons: (i) this rule will restrict only a small portion of the waterway for a limited period of time; (ii) vessel traffic could pass safely around the area; (iii) vessel traffic may pass through the area with COTP approval; (iv) recreational vessel operators may use spaces outside of the affected areas; (v) the maritime public would be advised in advance of this regulated area via Broadcast Notice to Mariners; and (vi) at times of high traffic density anticipated in 2013, there will be a

transit zone implemented to facilitate navigation. These measures have been implemented during similar marine events such as Fleet Week and have been successful.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Junior Grade DeCarol A. Davis at 415-399-7436, or e-mail D11-PF-MarineEvents@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian

tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus

standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

Pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and the Department of Homeland Security Management Directive 023-01 and Coast Guard Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the NEPA, the Coast Guard is working cooperatively with other affected Federal Agencies to evaluate potential environmental effects associated with the special local regulation, marine event permit, and safety zones for the proposed 34th America's Cup. The Coast Guard will not publish a final rule until the NEPA review has been completed.

We are publishing this proposed rule now to encourage maximum public input on the safety provisions proposed and seek any comments or information that may lead to the

discovery of a significant environmental impact from this proposed rule.

The NEPA analysis will be available during the NPRM public review period and additional information on the NEPA analysis, along with the dates of the NEPA public review period, can be found at www.americascupnepa.org. Comments specific to the NEPA analysis or the marine event permit should be directed to the contact listed at www.americascupnepa.org.

List of Subjects

33 CFR part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Waterways.

33 CFR part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Parts 100 and 165 as follows:

PART 100 - REGATTAS AND MARINE PARADES

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add temporary § 100-T11-0551A to read as follows:

§ 100-T11-0551A Special Local Regulation; 2012 America's Cup World Series.

(a) Location. This special local regulation establishes regulated areas on the waters of San Francisco Bay located in the vicinity of the Golden Gate Bridge, Alcatraz Island, the City of San Francisco waterfront, and the Bay Bridge. Movement within marinas, pier spaces, and facilities along the City of San Francisco waterfront is not regulated by this rule.

(1) The following area is the Primary Regulated Area for the 2012 America's Cup sailing regattas: All waters of San Francisco Bay bounded by a line beginning at position 37°48'39"N, 122°25'27"W at the Municipal Pier at Aquatic Park, running north to position 37°49'14"N, 122°25'27"W located south of Alcatraz Island, running west to position 37°49'14"N, 122°28'07"W, running southwest to position 37°49'02"N, 122°28'21"W, running south to position 37°48'32"N, 122°28'21"W, running eastward along the City of San Francisco shoreline, and ending at the Municipal Pier. All coordinates are North American Datum 1983.

(2) The following area is the Contingent Regulated Area for the 2012 America's Cup sailing regattas: All waters of San Francisco Bay bounded by a line connecting the following

coordinates: 37°50'56"N, 122°24'37"W; 37°51'24"N, 122°23'39"W; 37°51'23"N, 122°22'58"W; 37°50'07"N, 122°22'05"W; 37°49'54"N, 122°22'43"W; 37°49'35"N, 122°22'46"W; 37°48'51"N, 122°22'20"W; 37°48'52"N, 122°23'56"W; 37°49'02"N, 122°24'43"W; 37°49'48"N, 122°24'47"W; and 37°50'55"N, 122°24'37"W. All coordinates are North American Datum 1983.

(b) Enforcement Period. The regulations in this section will be enforced between the hours of noon and 5 p.m.

(unless curtailed earlier by the COTP or PATCOM) on race days between August 11, 2012, and September 2, 2012.

Notice of the specific race dates will be issued via Broadcast Notice to Mariners and published by the Coast Guard in the Local Notice to Mariners and in the Federal Register.

(c) Definitions. (1) Patrol Commander (PATCOM). As used in this section, "Patrol Commander" or "PATCOM" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the Captain of the Port San Francisco (COTP) to assist in the enforcement of the special local regulation.

(2) 2012 Race Area. As used in this section, "2012 Race Area" means an area within the Primary Regulated Area

bounded by America's Cup support vessels, which will be marked by prominently displayed banners.

(3) Contingent Race Area. As used in this section, "Contingent Race Area" means an area within the Contingent Regulated Area bounded by America's Cup support vessels, which will be marked by prominently displayed banners.

(d) Special Local Regulations. (1) 2012 Race Area Restrictions. The 2012 Race Area is closed to all unauthorized vessel traffic, except for those permitted by the COTP or PATCOM.

(2) Contingent Race Area Restrictions. In the event the race area must be altered to accommodate a north-south wind direction or other shift in weather, the restrictions in paragraphs (d)(1) will apply to the Contingent Race Area. In deciding whether to conduct the race in the Contingent Race Area, the COTP will consider commercial shipping traffic that intends to operate in the Central Bay Precautionary Area west of Treasure Island. The COTP will issue Broadcast Notices to Mariners to publicize the use of the Contingent Race Area.

(3) Requesting Transit through Race Areas. Vessel operators who desire to enter or operate within the 2012 Race Area or the Contingent Race Area while those areas are restricted must contact the COTP or PATCOM to obtain permission to do

so. Vessel operators given permission to enter or operate in those race areas must comply with all directions given to them by the COTP or PATCOM. Persons and vessels may request permission to enter a race area on VHF Channel 23A or through the Coast Guard Sector San Francisco Command Center via telephone at 415-399-3547.

(4) Area Closed to All Motorized Vessels and Vessels Greater Than 20 Feet. Within the Primary Regulated Area, the following area is established for swimmers, rowers, kayakers, and non-motorized vessels of 20 feet or less: The area bounded by a line beginning at position, 37°48'32"N, 122°26'24"W, running west to position 37°48'32"N, 122°28'00"W, running northwest to position 37°48'40"N, 122°28'21"W, running south to position 37°48'32"N, 122°28'21"W, running eastward along the City of San Francisco shoreline, and ending at the beginning position 37°48'32"N, 122°26'24"W (NAD 83). This area is closed to all motorized vessels and all other vessels greater than 20 feet. All vessels are prohibited from anchoring in this designated area.

(5) No-Loitering Area. No vessels may anchor or loiter in the navigable waters south of the 2012 Race Area, east of the area defined in paragraph (d)(4), and west of Aquatic Park, except with the permission of PATCOM.

(6) Closure of Shipping Lanes. Eastbound and Westbound San Francisco Bay Traffic Lanes will be closed to all vessels greater than or equal to 100 gross tons. Vessel traffic will be permitted to operate during the enforcement period using the Deep Water (two-way) Traffic Lane established in 33 CFR 165.1181. Vessels of 100 gross tons or greater that need to enter or operate within the closed traffic lanes shall obtain permission from the COTP by contacting the VTS via VHF Channel 14.

(7) Control of Vessel Movement to Ensure Safety.

(i) The COTP, or PATCOM as the designated representative of the COTP, may control the movement of all vessels operating on the navigable waters of San Francisco Bay when the COTP has determined that such orders are justified in the interest of safety by reason of weather, visibility, sea conditions, temporary port congestion, and other temporary hazardous circumstances.

(ii) When hailed or signaled by PATCOM, the hailed vessel must come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(iii) The COTP may delay, shorten, or terminate any America's Cup race at any time it is deemed necessary.

(iv) After termination of the America's Cup races each day, the Coast Guard will issue a Broadcast Notice to Mariners to publicize the decision to resume normal operations.

3. Add temporary § 100-T11-0551B to read as follows:

§ 100-T11-0551B Special Local Regulation; 2013 America's Cup Sailing Events.

(a) Location. This special local regulation establishes regulated areas on the waters of San Francisco Bay located in the vicinity of the Golden Gate Bridge, Alcatraz Island, the City of San Francisco waterfront, and the Bay Bridge. Movement within marinas, pier spaces, and facilities along the City of San Francisco waterfront is not regulated by this rule.

(1) The following area is the Primary Regulated Area for the 2013 America's Cup sailing events: All waters of San Francisco Bay bounded by a line beginning at position 37°48'12"N, 122°24'04"W located on the foot of Pier 23, running northeast to position 37°48'41"N, 122°23'16"W, running northwest to position 37°49'41"N, 122°24'30"W located east of Alcatraz Island, running west to position 37°49'41"N, 122°27'35"W, running southwest to position 37°49'02"N, 122°28'21"W, running south to position 37°48'32"N, 122°28'21"W, and running eastward along the City of San Francisco shoreline ending at position

37°48'12"N, 122°24'04"W located on the foot of Pier 23.

All coordinates are North American Datum 1983.

(2) The following area is the Contingent Regulated Area for the 2013 America's Cup sailing events: All waters of San Francisco Bay bounded by a line connecting the following coordinates: 37°50'56"N, 122°24'37"W; 37°51'24"N, 122°23'39"W; 37°51'23"N, 122°22'58"W; 37°50'07"N, 122°22'05"W; 37°49'54"N, 122°22'43"W; 37°49'35"N, 122°22'46"W; 37°48'51"N, 122°22'20"W; 37°48'52"N, 122°23'56"W; 37°49'02"N, 122°24'43"W; 37°49'48"N, 122°24'47"W; and 37°50'55"N, 122°24'37"W (NAD 83).

(b) Enforcement Period. The following regulations will be enforced between the hours of noon and 5 p.m. (unless curtailed earlier by the COTP or PATCOM) on race days between July 4, 2013, and September 24, 2013. Notice of the specific race dates will be issued via Broadcast Notice to Mariners and published by the Coast Guard in the Local Notice to Mariners and in the Federal Register.

(c) Definitions. (1) Patrol Commander (PATCOM). As used in this section, "Patrol Commander" or "PATCOM" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the Captain of the Port San

Francisco (COTP) to assist in the enforcement of the special local regulation.

(2) 2013 Race Area. As used in this section, "2013 Race Area" means an area within the Primary Regulated Area bounded by America's Cup support vessels, which will be marked by prominently displayed banners.

(3) Contingent Race Area. As used in this section, "Contingent Race Area" means an area within the Contingent Regulated Area bounded by America's Cup support vessels, which will be marked by prominently displayed banners.

(d) Special Local Regulations. (1) 2013 Race Area Restrictions. The 2013 Race Area is closed to all unauthorized vessel traffic, except for those permitted by the COTP or PATCOM.

(2) Contingent Race Area Restrictions. In the event the race area must be altered to accommodate a north-south wind direction or other shift in weather, the restrictions in paragraphs (d)(1) will apply to the Contingent Race Area. In deciding whether to conduct the race in the Contingent Race Area, the COTP will consider commercial shipping traffic that intends to operate in the Central Bay west of Treasure Island. The COTP will issue Broadcast Notices to Mariners to publicize the use of the Contingent Race Area.

(3) Requesting Transit through Race Areas. Vessel operators who desire to enter or operate within the 2013 Race Area or the Contingent Race Area while those areas are restricted must contact the COTP or PATCOM to obtain permission to do so. Vessel operators given permission to enter or operate in those race areas must comply with all directions given to them by the COTP or PATCOM. Persons and vessels may request permission to enter a race area on VHF Channel 23A or through the Coast Guard Sector San Francisco Command Center via telephone at 415-399-3547.

(4) Area Closed to All Motorized Vessels and Vessels Greater Than 20 Feet. Within the Primary Regulated Area, the following area is established for swimmers, rowers, kayakers, and non-motorized vessels of 20 feet or less: The area bounded by a line beginning at position, 37°48'32"N, 122°26'24"W, running west to position 37°48'32"N, 122°28'00"W, running northwest to position 37°48'40"N, 122°28'21"W, running south to position 37°48'32"N, 122°28'21"W, running eastward along the City of San Francisco shoreline, and ending at the beginning position 37°48'32"N, 122°26'24"W (NAD 83). This area is closed to all motorized vessels and all other vessels greater than 20 feet. All vessels are prohibited from anchoring in this designated area.

(5) No-Loitering Area. No vessels may anchor or loiter in the navigable waters south of the 2013 Race Area, east of the area defined in paragraph (d)(4), and west of Aquatic Park, except with the permission of PATCOM.

(6) Transit Zone. Within the Primary Regulated Area, a transit zone, approximately 200 yards in width, is established along the City of San Francisco waterfront. The transit zone will begin at the face of Pier 23, run westward along the pier faces to the Municipal Pier, and continue westward to the northern boundary of the area defined in paragraph (d)(4). This transit zone is bounded by the following coordinates: 37°48'40"N, 122°28'21"W;

37°48'32"N, 122°28'00"W; 37°48'32"N, 122°26'24"W;

37°48'39"N, 122°25'27"W; 37°48'23"N, 122°25'13"W;

37°48'41"N, 121°24'30"W; 37°48'28"N, 121°24'04"W;

37°48'17"N, 121°23'54"W; 37°48'21"N, 122°23'49"W;

37°48'33"N, 122°24'00"W; 37°48'48"N, 122°24'32"W;

37°49'15"N, 122°24'00"W; 37°49'21"N, 122°24'05"W;

37°48'48"N, 122°24'40"W; 37°48'49"N, 122°25'16"W;

37°48'37"N, 122°26'22"W; 37°48'37"N, 122°28'00"W;

37°48'47"N, 122°28'21"W; (NAD 83). This transit zone is

for vessels that need to access pier space or facilities

at, or to transit along, the City of San Francisco

waterfront. It may be marked by temporary buoys or

America's Cup support vessels. No vessel may anchor, block, loiter in, or otherwise impede transit in the transit zone. In the event the eastern sections of the transit zone are temporarily closed for vessel safety as races finish, vessels must follow the procedures in paragraph (d)(3) to request access.

(7) Anchorage 7 Restrictions. No vessel may anchor in Anchorage No. 7, delineated at 33 CFR 110.224(e)(4), except with the permission of the COTP. Vessels encountering emergencies that require anchoring in Anchorage 7 should contact the Sector San Francisco Vessel Traffic System (VTS) on VHF Channel 14.

(8) Closure of Shipping Lanes. Eastbound and Westbound San Francisco Bay Traffic Lanes will be closed to all vessels greater than or equal to 100 gross tons. Vessel traffic will be permitted to operate during the America's Cup sailing races using the Deep Water (two-way) Traffic Lane established in 33 CFR 165.1181. Vessels of 100 gross tons or greater that need to enter or operate within the closed traffic lanes shall obtain permission from the COTP by contacting the VTS via VHF Channel 14.

(9) Control of Vessel Movement to Ensure Safety. (i) The COTP, or PATCOM as the designated representative of the COTP, may control the movement of all vessels operating on

the navigable waters of San Francisco Bay when the COTP has determined that such orders are justified in the interest of safety by reason of weather, visibility, sea conditions, temporary port congestion, and other temporary hazardous circumstances.

(ii) When hailed or signaled by PATCOM, the hailed vessel must come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(iii) The COTP may delay, shorten, or terminate any America's Cup race at any time it is deemed necessary to ensure safety.

(iv) After termination of the America's Cup races each day, the Coast Guard will issue a Broadcast Notice to Mariners to publicize the decision to resume normal operations.

PART 165 - REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

4. The authority for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

5. Add a new temporary section § 165-T11-0551 to read as follows:

§ 165-T11-0551 Safety Zone; America's Cup Sailing Events.

(a) Definitions. (1) America's Cup Racing Vessel. As used in this section, "America's Cup Racing Vessel" means an official competing vessel of the 34th America's Cup.

(2) Patrol Commander. As used in this section, "Patrol Commander" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the Captain of the Port San Francisco (COTP) to assist in the enforcement of the safety zone.

(b) Location and enforcement period. A safety zone extends 100 yards around America's Cup Racing Vessels between noon and 5 p.m. on the race days during the following dates: between August 11, 2012, and September 2, 2012; and between July 4, 2013, and September 24, 2013. Notice of the specific race dates will be issued via Broadcast Notice to Mariners and published by the Coast Guard in the Federal Register.

(c) Regulations. (1) The provisions of 33 CFR 165.23 apply to this safety zone. No person or vessel underway may enter or remain within 100 yards of an America's Cup Racing Vessel unless authorized by the Patrol Commander.

(2) This safety zone shall not relieve any vessel, including America's Cup Racing Vessels, from the observance of the Navigation Rules.

(3) To request authorization to operate within 100 yards of an America's Cup Racing Vessel, contact the Patrol Commander on VHF-FM Channel 23A.

(4) When conditions permit, the Patrol Commander should:

(i) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of America's Cup Racing Vessels in order to ensure a safe passage in accordance with the Navigation Rules; and

(ii) Permit vessels anchored in a designated anchorage area to remain at anchor when within 100 yards of a passing America's Cup Racing Vessel.

Dated: JAN 23 2012

Cynthia L. Stowe
Captain, U.S. Coast Guard
Captain of the Port San Francisco

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